



# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

## FINDINGS DOCUMENT

### Utah Coal Regulatory Program

**PID:** C0070045  
**TaskID:** 4404  
**Mine Name:** COVOL SITE  
**Title:** PERMIT TRANSFER

## General Contents

### Identification of Interest

#### Analysis:

The application meets the requirements of R645-301-112 by providing all required information for ownership and control. The application lists the Owner as BRC Wellington, LLC, and the Operator remains Bowie Refined Coal, LLC.

The Applicant Violator System was updated on 8/21/13 with the revised ownership and control information provided. No new ownership and control information was provided with the submittal on 9/24/13 for input into the AVS system. An AVS Evaluation was generated for the proposed new ownership on 9/27/13. No violations were retrieved from the system. An AVS Evaluation was also generated for Covol Engineered Fuels on 9/27/13, the current permittee on 9/27/13. No violations were retrieved from the system.

ssteab

### Identification of Interest

#### Analysis:

The application meets the Identification of Interests requirements of the R645 State of Utah Coal Mining Rules.

R645-301-112- Per the requirements of R645-301-112.100, the Permittee indicates on page 1-2 of the application that BRC Wellington, LLC (BRCW) and Bowie Refined Coal LLC (BRC) are both limited liability companies. On page 1-2 of the application, the Permittee states, "BRC Wellington LLC (hereafter referred to as BRCW) is a subsidiary of DB RC Investments II LLC and an affiliate of Bowie Refined Coal LLC and various subsidiaries of Deutsche Bank. The Permittee indicates that "BRCW" is the owner" of the property. The name, address and telephone number for BRC Wellington LLC (applicant) are provided on page 1-2. The Operator (Bowie Refined Coal LLC) name, address and telephone number is provided on page 1-3 of the application. On page 1-4, the Permittee indicates that the address and phone numbers for the officers and directors of DB RC Investments I LLC, DB RC Investments II, LLC and BRC are the same as the applicant (BRC Wellington LLC). However, DB RC Investments I LLC was not identified on page 1-2 in the 'Identification of Interests' section.

The previous technical analysis (Task ID #4388) directed the Permittee to revise the first paragraph of page 1-2 to identify the relationship of DB RC Investments I, LLC to the applicant. On page 1-2, the Permittee provides clarification as to the relationship between the applicant (BRCW), the operator (BRC) with DB RC Investments I, LLC and DB RC Investments II, LLC. Bowie Refined Coal, LLC (BRC) is the operator of the facility. Additionally, BRC is the owner and/or managing member of DB RC Investments I, LLC and DB RC Investments II, LLC.

Additionally, the previous analysis directed the Permittee to revise Figure 1-1 in the currently approved MRP. Figure 1-1 provides the organizational structure of the various entities connected to the Covol facility. Figure 1-1 has been provided with the application.

The previous technical analysis (Task ID #4388) directed the Permittee to provide the tax payer identification number for the "applicant and the operator". The tax payer identification number is provided for the applicant (BRCW- FEIN 36-4743889) on page 1-3, but the tax payer identification number for the operator (Bowie Refined Coal, LLC) was not readily apparent. The Permittee identified page 1-5 as to the location of the tax payer identification number for the operator (46-0911657).

The previous technical analysis (Task ID #4388) directed the Permittee to provide the applicant's resident agent. On page 1-5 of the application, the Permittee identifies Kyle Edwards as the resident agent. The application further states, "Written correspondence to BRCW or BRC regarding the operations should be addressed to Kyle Edwards". However; the address for Mr. Edwards is not provided. As a condition for final approval of the permit transfer application, page 1-5 of the application must be revised to identify the mailing address for Kyle Edwards (Resident Agent).

The previous technical analysis (Task ID #4388) directed the Permittee to provide the telephone number provided for the applicant on page 1-2. The previous application contained a typo. The number provided in the application was (502) 58-6022. The typo has been corrected.

Beginning on the page of 1-3, the Permittee provides the names, positions/titles and relationship to the applicant, including the percentage of ownership. On page 1-4, the Permittee indicates that the addresses and phone numbers for the officers and directors of DB RC Investments I, LLC, DB RC Investments II, LLC and BRC are the same as the applicant (i.e. 100 Dutchmans Lane, Suite 900, Louisville, KY 40205, (502) 584-6022.

Steve Rickmeier is identified as the Managing Member with a 90% ownership. James F. Wolff is identified as the Chief Financial Officer with a (10% ownership). Justin F. Thompson is identified as the VP of Operations. The dates that the aforementioned assumed their relative positions is also provided on pages 1-3 and 1-4.

Beginning on page 1-6, the Permittee provides information relative to all current and/or previously operated coal mining and reclamation operations in the United States within the five years preceding the date of the application. Table 1-1, Related-Entity Permits (see page 1-13) provides a tabulated list of other coal mining and reclamation operations of which the applicant is either currently operating or operated in the past dating back to 2008 (5 years prior to application date as required by rule). The permit numbers, MSHA ID numbers and federal employee identification number are provided in Table 1-1 as required. On page 1-5, the application discusses how the three aforementioned individuals hold the same positions and the same ownership percentages in each of the following companies: Bowie Refined Management LLC, BRC Chinook LLC, BRC Pinnacle LLC, BRC Rockcrusher LLC, BRC Greenfuels LLC, BRC Alabama No. 3 LLC, BRC Alabama No. 4 LLC, BRC Alabama No. 5 LLC and BRC Alabama No. 7 LLC. All of these operations are listed in Table 1-1 on page 1-13.

On page 1-7 of the application, the Permittee indicates that "DB RC Investments II LLC is the legal and equitable owner of the entire 30-acre surface parcel included within the permit area". As no active coal mining occurs at the site, the mineral properties are not affected by the operation. A property ownership map of the permit and the adjacent areas is provided in Figure 5-2 of the already approved MRP. No area within the lands to be affected by the facility is under a real-estate contract.

On page 1-7, the application provides the owners of surface lands that are contiguous to the permit boundary.

The MSHA number for the site is 42-02398 (See page 1-8). Continuing on page 1-8, the Permittee indicates that "the applicant neither owns nor controls, directly or indirectly, a legal equitable interest in any lands contiguous to the permit area".

The application conditionally meets the Identification of Interests requirements of the State of Utah R645 Coal Mining Rules. The following condition must be met prior to final approval of the permit transfer application:

R645-301-112.220: As a condition for final approval of the permit transfer application, page 1-5 of the application must be revised to identify the mailing address for Kyle Edwards (Resident Agent). The information provided on page 1-5 only identifies the town of Wellington, UT 84654 as the location to direct written correspondence regarding the operations at the Covol site. Please revise page 1-5 with the full mailing address prior to the submission of clean-copies.

## Violation Information

### Analysis:

The application meets the Violation Information requirements of the State of Utah R645 rules.

On page 1-8, the Permittee indicates that "Neither BRCW nor any major stockholder of BRCW having any interest, either legal or equitable in the Wellington facility have had a State or Federal mining permit suspended or revoked or a security deposited in lieu of bond revoked. No notices of non-compliance have been issued within the last 3 years to BRCW or a related entity".

Additionally, on 08/06/2013 and 09/27/2013 the Division performed an AVS evaluation. No violations were retrieved in the system.

schriste

## Right of Entry

### Analysis:

The application meets the Right of Entry requirements of the State of Utah R645 Coal Mining Rules.

On page 1-8, the Permittee indicates that "the facility is located on lands that are entirely owned by the parent company of the operator (see Appendix 1-3). Hence, no other right of entry is required".

The previous technical analysis (Task ID #4388) identified a deficiency relative to the right of entry requirements. Per the requirements of R645-301-114, the Permittee was directed to provide a description of the documents upon which the applicant bases their legal right to enter and begin coal mining and reclamation operations in the permit area and state whether that right is the subject of pending litigation. Upon review of the previous application, Appendix 1-3, Property Warranty Deeds had not been revised to reflect the sale/transfer of the property.

The Permittee has provided the right of entry documents in Appendix 1-3 of the application.

schriste

## Legal Description

### Analysis:

The application meets the Legal Description and Status of Unsuitability Claims requirements of the State of Utah R645 Coal Mining Rules.

Plate 5-1, General Site Map Wellington Dry Coal Cleaning Facility, clearly depicts the permit boundary. A legal description is provided in Appendix 1-3. As discussed previously, the right of entry information in Appendix 1-3 must be updated. However; per the requirements of R645-300-121.120, a "map or description which clearly shows or describes the precise location and boundaries of the proposed permit area" is required. Plate 5-1 fulfills this requirement.

As active mining does not occur at this facility, the unsuitability requirements are not applicable.

schriste

## Permit Term

### Analysis:

The permit term information is presented on page 1-10 of the application. The Permittee indicates that termination of operations at the facility will be determined by economic conditions are, as a result, the timing of termination of operations is unknown. However; it is anticipated that the Applicant will operate the site for a period in excess of 5 years.

schriste

## Public Notice and Comment

### Analysis:

The application meets the Public Notice and Comment requirements of the State of Utah R645 Coal Mining Rules.

The previous technical analysis (Task ID #4388) directed the Permittee submit proof of publication to Division. In Appendix

1-5 of the application, the Permittee provides an affidavit of publication from Richard Shaw (Publisher of the Sun Advocate, a twice-weekly newspaper of general circulation, published in Price, UT).

The affidavit of publication indicates that the previously approved 'Notice of Permit Transfer' was published in the Sun Advocate for four consecutive issues beginning on August 1st, 2013. The last date of publication was August 22nd, 2013.

schriste

## Permit Application Format and Contents

### Analysis:

The application meets the Permit Application Format and Contents requirements of the State of Utah R645 Coal Mining Rules.

On page 1-5 of the application, the Permittee identifies Brian Pate as the individual to submit written correspondence to. During the review of the application, it was discovered that Mr. Pate is no longer with the company.

The previous technical analysis (Task ID #4388) directed the Permittee to revise the application on page 1-5 to reflect that Brian Pate was no longer associated with BRC Wellington, LLC. The Permittee has revised the application to identify Kyle Edwards as the resident agent for the property.

schriste

## Reclamation Plan

### Bonding and Insurance General

### Analysis:

The application conditionally meets the required Bonding and Insurance Requirements of the State of Utah R645 Coal Mining Rules.

Per the requirements of R645-301-890, the Permittee was directed to submit a certificate issued by an insurance company, authorized to do business in Utah, certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation activities for which the permit is sought (Task ID #4388). Minimum insurance coverage for bodily injury and property damage will be \$300,000 for each occurrence and \$500,000 aggregate.

In Appendix 8-2, the Permittee provides a copy of the Certificate of Liability Insurance. The limits identified in the certificate meet the requirements outlined in the State of Utah R645 Coal Mining Rules. A limit of \$1,000,000 is identified for each occurrence with a corresponding limit of \$2,000,000 identified for the aggregate amount.

The previous technical analysis also directed the Permittee to obtain and submit to the Division, appropriate performance bond coverage, or other guarantee in an amount sufficient to cover the proposed operations performance or obtain the bond coverage of the original Permittee. The Permittee indicated in the cover letter of the most recent application that "The Permittee will provide the appropriate performance bond coverage upon conditional approval of the required changes."

The application conditionally meets the Bonding and Insurance Requirements of the State of Utah R645 Coal Mining Rules.

Prior to final approval of the permit transfer application, the Permittee must obtain and submit to the Division, appropriate performance bond coverage, or other guarantee in an amount sufficient to cover the proposed operations performance or obtain the bond coverage of the original Permittee per R645-303-323, -342.

schriste